

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In Re Applications of:)	MM DOCKET No.: 99-153
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No.: BPCT-940630KG
CORPORATION)	
)	
For Construction Permit for a)	
New Television Station to)	
Operate on Channel 51)	
Reading, Pennsylvania)	

CORRECTED COPY

Volume: 15
Pages: 1323 through 1348
Place: Washington, D.C.
Date: March 28, 2000

APR 14 10 52 AM '00
FCC-0ALJ RCD

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018
(202) 628-4888
hrc@concentric.net

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of:)	MM DOCKET No.: 99-153
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No.: BPCT-940630KG
CORPORATION)	
)	
For Construction Permit for a)	
New Television Station to)	
Operate on Channel 51)	
Reading, Pennsylvania)	

Room TWA-363
FCC Building
445 Twelfth Street, S.W.
Washington, D.C. 20554

Tuesday,
March 28, 2000

The parties met, pursuant to the notice of the
Judge at 10:08 p.m.

BEFORE: HONORABLE RICHARD L. SIPPEL
Presiding Judge

APPEARANCES:

On behalf of the Federal Communications Commission
JAMES SHOOK, Esquire
Federal Communications Commission
Enforcement Bureau
445 12th Street, S.W., Room 3-A463
Washington, D.C. 20554
(202) 418-1448

Heritage Reporting Corporation
(202) 628-4888

APPEARANCES (CONTINUED):

On behalf of Reading Broadcasting, Inc.:

THOMAS J. HUTTON, Esquire
Holland & Knight, L.L.P.
2100 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20037-3202
(202) 955-3000

On Behalf of Adams Communications Corporation:

HARRY F. COLE, Esquire
Bechtel & Cole Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036
(202) 833-4190

P R O C E E D I N G S

(10:08 a.m.)

JUDGE SIPPEL: We are on the record. This conference was called at my order. And it is actually two days before I had anticipated having a conference for these purposes. But in light of discovery efforts last week, I thought it made sense to move it up. But I am still holding Thursday open as a conference date if we need it, if it is needed for anything.

I am concerned about the apparent unavailability of adequate documents to get these depositions under way. This is really micromanaging. But last week was not a very pleasant experience. And I don't think it should have had to happen. But I am not here to lecture. I am here to find out what is going on.

Why don't I take your appearances on the record now. For Reading Broadcasting, please. Your Honor

MR. HUTTON: Thomas Hutton for Reading Broadcasting, Inc.

JUDGE SIPPEL: And on behalf of Adams.

MR. COLE: Harry Cole on behalf of Adams Communications Corporation.

JUDGE SIPPEL: And Mr. Shook.

MR. SHOOK: James Shook for the Chief Enforcement Bureau.

1 JUDGE SIPPEL: Okay. Why don't I ask Mr. Cole to
2 tell me exactly where you stand with respect to documents.

3 MR. COLE: I have received approximately 5:30 or
4 5:45 I guess it was Friday evening after the release of your
5 order the documents from Sidley and Austin minus the two
6 that were being withheld pursuant to your order. And that's
7 I have no objection to that. And I do not intend to pursue
8 those two documents at all.

9 And I believe at this point, I have all the
10 documents that I have asked for that I am aware of. If
11 there are other documents that are responsive that I don't
12 know about, you know, I have no control over that and can't
13 predict. I mean, I was not -- obviously, I was not aware
14 that there are the documents that became the focus of
15 dispute last week until I was advised of their existence I
16 guess on Tuesday or thereabouts.

17 But as far as I am aware, the documents that I am
18 aware that I have asked for I have received that I am
19 entitled to.

20 JUDGE SIPPEL: And as far as Reading is concerned,
21 Mr. Hutton, is that it? I mean, do you have any more?

22 MR. HUTTON: I have a phone call in to confirm
23 that I have everything. But I believe I have everything --

24 JUDGE SIPPEL: All right.

25 MR. HUTTON: -- and have produced everything.

1 JUDGE SIPPEL: Okay. Now, both -- and please, Mr.
2 Shook, interject at any time that you feel you have
3 something to add.

4 MR. SHOOK: Well, I do want to add something at
5 this point.

6 JUDGE SIPPEL: Please.

7 MR. SHOOK: It was my understanding from a
8 previous conversation with Mr. Hutton that there were some
9 other documents that were going to come to you, but there
10 had been a problem in transit. And I don't -- I am not sure
11 that I ever got the documents that were referenced in that
12 conversation.

13 MR. HUTTON: Okay. On Wednesday or Thursday, I
14 submitted a hand-delivery to Mr. Cole and to you with
15 additional documents. And it is currently sitting in the
16 secretary's office.

17 MR. SHOOK: We have our internal problems which
18 Mr. Hutton, of course, has absolutely nothing to do with.
19 So with that representation, I am reasonably assured that
20 the documents that he is referring to will come to me
21 relatively soon.

22 MR. COLE: If I might interject though, Your
23 Honor, and ask Mr. Hutton a question. My recollection of
24 the conversation, I think it was a conference or a telephone
25 call, was that there was a -- one box, possibly -- there was

1 a collection of documents, I don't know whether it was one
2 or two boxes, relating to Mount Baker which would have
3 been -- which would have at least conceivably fallen within
4 the scope of the Bureau's request that had been lost in
5 transit and that had been located and tracked down through
6 UPS and that Mr. Hutton was going to review.

7 I don't recall any of the Mount Baker documents in
8 the materials that came in last Wednesday. But Mr. Hutton
9 may correct me on that.

10 MR. HUTTON: I went through the box of documents
11 and produced everything within those documents that was
12 responsive.

13 JUDGE SIPPEL: All right. And what did you say,
14 there is something lodged here at the agency that you
15 haven't seen yet, Mr. Shook?

16 MR. SHOOK: Well, Mr. Hutton referred to a hand-
17 delivery. And that hand-delivery hasn't reached me yet.
18 That is not necessarily, you know, his fault or his concern.
19 I am sure that he did exactly what he said he did. It is
20 just that those documents haven't reached me yet. And now
21 that I know they are here, I will be on the look-out for
22 them.

23 JUDGE SIPPEL: Okay. All right. Well, I want
24 to -- you know, really, there has to be some kind of ground
25 rules set for this. I mean, we are acting under I think

1 enormous strain with respect to how these -- we are set up
2 here in this particular building.

3 I have always been able to get documents almost
4 virtually instantaneously from lawyers. And we can't do
5 that now. What you are going to have to do is call ahead of
6 time and coordinate a pick-up down -- you know, down at the
7 turnstile. Otherwise, these documents, they get put
8 someplace. And we will see them eventually, that's true.
9 But that is not what we -- we need what we need better than
10 that.

11 And, I mean, I -- the last time we had to do this,
12 it was at Sidley Austin and it worked out all right. But it
13 required a lot of coordination. And it is not going to have
14 to happen too often. But when there is something that --
15 like documents that need to come in, you know, get on the
16 phone and work something out for a hand delivery right down
17 by the turnstile.

18 MR. HUTTON: Well, Your Honor, I would have done
19 that if I had known that we had any depositions immediately
20 forthcoming. But I was aware from talking to Sibley and
21 Austin that their witnesses were not going to be immediately
22 available. So I didn't think there was particular urgency
23 to us.

24 JUDGE SIPPEL: I know. But what happens is -- and
25 I'm not saying this to be critical, it is just a fact of

1 life -- what happens is all of a sudden something can't get
2 delivered -- can't get to attorneys that need it on a
3 Friday, so you've got to wait until Monday. I mean, you
4 know, sometimes it is more than just a loss of a couple of
5 hours. Sometimes it is a whole, you know, weekend.

6 Well, then you have to wait until Monday. It
7 never used to be that way and it doesn't -- sometimes it is
8 going to happen. But I want to be sure that we are doing
9 everything that we can to avoid it. That's all.

10 JUDGE SIPPEL: Are we all set?

11 THE COURT REPORTER: Yes. This is just a backup
12 tape.

13 JUDGE SIPPEL: Okay. All right. That -- this
14 leads me into my next -- the next category, the next
15 subject-matter which is the new -- I mean, it seems to me it
16 is a -- oh, well, before I pass on to that, how about the
17 Bureau's interrogatories? Are they -- have you received
18 information, the answers to your interrogatories?

19 MR. SHOOK: Well, this is something that Mr. Cole
20 and I are still working through. There is -- so far as I
21 can tell, and obviously Mr. Cole will correct me if I am
22 mistaken here, that we should be able to work this out
23 amicably. And as of now, you know, there is -- it is just a
24 matter of when Mr. Cole has a chance to focus on it.

25 His attention is elsewhere. I mean, we have

1 spoken. We have a general understanding of how this is
2 going to work. But there is still a detail or two that we
3 have to flesh out.

4 JUDGE SIPPEL: Well, how about as far as your
5 information on Reading? Are you all set on that?

6 MR. SHOOK: I am pretty well set with the
7 exception of I guess the documents that I now have to find
8 here somewhere.

9 JUDGE SIPPEL: The ones that are here somewhere.
10 All right. Well, do you want to add anything to that, Mr.
11 Cole?

12 MR. COLE: No, Your Honor.

13 JUDGE SIPPEL: What I am trying to do is get a
14 wrap-up in terms of what -- exactly where things stand as
15 far as discovery goes. So the next subject is clearly one
16 of a hearing date. The previously set hearing date for the
17 4th of April at this point, you know, is obviously totally
18 unrealistic. And I am -- you know, I have been -- I am more
19 impressed, too, by now recently having received a pleading
20 from Reading, from Mr. Hutton, which indicates that you also
21 want more time, Phase II.

22 MR. HUTTON: Well, we just think realistically
23 that more time is needed because discovery is still in
24 process.

25 JUDGE SIPPEL: Well, that's more of Mr. Cole's

1 problem. I mean, do you have a problem, too, in terms of
2 your preparation or is this just --

3 MR. HUTTON: I don't --

4 JUDGE SIPPEL: Well, let me stop there.

5 MR. HUTTON: Well, discovery sort of a two-way
6 process. Even though Mr. Cole is taking the depositions, I
7 learn things, too. So I would say that I need discovery to
8 be completed, as well.

9 JUDGE SIPPEL: What kind of discovery are you
10 going to need? As far as I know, we've got three
11 depositions that need to be taken based on these documents
12 that we are struggling to pull together before -- for Phase
13 Ii.

14 MR. HUTTON: Right.

15 JUDGE SIPPEL: So what kind of discovery do you
16 need?

17 MR. HUTTON: I don't need any discovery other than
18 the depositions that are scheduled. Now, I guess the one
19 thing that I should mention is that I am contemplating the
20 possibility of an expert witness for our side. And I don't
21 know how you want to handle that. But I am talking to some
22 potential expert witnesses.

23 JUDGE SIPPEL: Well, you are going to have to file
24 -- you are going to have to apply for that. You are going
25 to have to give me a petition -- a request in writing, you

1 know, some specifics, what are we talking about.

2 MR. HUTTON: Okay.

3 JUDGE SIPPEL: Because, you know, with that
4 advice, that advice is a subtle expert witness. You know
5 what that can lead to. So, you know, I -- you are going to
6 have to be very specific and very convincing in terms of
7 showing the need for that. But, sure, go ahead and do it.
8 We can set a date for that, too.

9 Right now, I am trying to focus on dates for Phase
10 II. And I want to get into Phase III to a degree, but not -
11 - Phase III being the abuse of process issue against Adams.

12 Here is what I see for Phase II. The week of
13 April 17th to April 21st there will be absolutely nothing
14 done. I mean, you can do whatever is in your interest to
15 prepare, but there is going to be nothing done as far as any
16 kind of a formal proceeding here.

17 I want to start on April the 25th, which is a
18 Tuesday, with a status call on Phase II. That is to be
19 having your -- asking for representations that we can go
20 forward on this as scheduled. April the 26th, I may end up
21 calling that off if you have convinced me ahead of time.
22 And we may do something informally on that. But I want to
23 set it down right now. That will be a 10:00 a.m. status
24 call.

25 The 26th will be the exchange of the trial briefs,

1 witness lists, document lists and documents that are going
2 to be used. In the nature of this issue, I mean, I think
3 there is no document -- there shouldn't be much of a
4 surprise as far as documents go. Everybody should pretty
5 well know where their documents are going to be.

6 April the 27th, we are going to have an admission
7 session. We will mark and receive public testimony,
8 transcripts and the hearing exhibits of Phase II to the
9 extent that we can. If there is a witness needed, you know,
10 for sponsoring a particular document, I can assume we just
11 won't be able to do it then. But I am going to try to get
12 in to have marked at least whatever I can on that date so
13 that we can move forward when the witnesses show up.

14 On April the 28th, that should be a Friday --
15 Friday. I want to take the testimony of Mr. Bendetti. I
16 want to hear the testimony of Mr. Bendetti. Are there any
17 other rebuttal witnesses? Is Bendetti -- I haven't had a
18 chance to go back and review all of my prior orders on this.
19 But I know the Bendetti -- is there going to be other
20 rebuttal witnesses besides Bendetti?

21 MR. COLE: Not that we contemplate at this point,
22 Your Honor. I don't believe so, no.

23 JUDGE SIPPEL: Well, I want to know what I have
24 authorized.

25 MR. COLE: No, you have authorized Bendetti. And

1 I believe you mentioned that Mr. Linton would be available -
2 - or that you would contemplate Mr. Linton. In an earlier
3 pleading, we had suggested just offering the deposition
4 testimony of Mr. Linton. And you said, no. If we wanted to
5 use Mr. Linton as a rebuttal witness, we could not just
6 submit his deposition testimony. We would have to use him
7 as a live witness.

8 JUDGE SIPPEL: Okay.

9 MR. COLE: And at this point, our inclination is
10 not to put him on as a live witness.

11 JUDGE SIPPEL: Okay. So Bendetti would be it.

12 MR. COLE: I believe so. We had also suggested
13 Mr. McCracken. But you had declined to authorize Mr.
14 McCracken. So --

15 JUDGE SIPPEL: Right. I recall that.

16 MR. COLE: So -- and I believe those were the only
17 three we had listed. And at this point, Bendetti is the
18 only one we are going to go with.

19 JUDGE SIPPEL: Well, that is my recollection. I
20 just want to be sure. I hadn't had a chance to review that
21 order. Well, then what I want to do is obviously complete
22 the rebuttal phase of the case by April the 28th. And then
23 we would start in on Phase II having done all that
24 preliminary work. But start in on Tuesday, the 2nd of May,
25 at 10:00 a.m.

1 And I am hoping that we could finish it up that
2 week. What do you think, Mr. Hutton?

3 MR. HUTTON: I'm sorry. I have to interject
4 something of a personal nature. My wife is expecting and is
5 due on April 29th.

6 JUDGE SIPPEL: Yes.

7 MR. HUTTON: Yes.

8 JUDGE SIPPEL: You and the Prime Minister of
9 England when you get the same problem. I don't know. What
10 am I supposed to do about that? April the 29th is -- well,
11 my grandson was born on a weekend. My son-in-law went back
12 to work the next week. I don't know. What are you planning
13 on doing? I mean, the 29th if she is due -- if she is due
14 the 29th and if she delivers on the 29th, why can't you be
15 here on the 2nd?

16 MR. HUTTON: Well, she might deliver anytime
17 around that time period. The 29th is just an estimate.

18 JUDGE SIPPEL: Well, I understand that. Well, we
19 just -- I can't see not -- I mean, you are putting me on
20 notice. That is all I can do. That is all I can do. I
21 mean, we are just going to have to take it as it comes.
22 What are you suggesting?

23 MR. HUTTON: Well, I guess I had hoped to push the
24 entire Phase II back a couple of weeks.

25 JUDGE SIPPEL: You mean like into the week of the

1 9th or something like -- 8th and 9th, something like that?
2 What are you saying, a couple of weeks?

3 MR. HUTTON: Well, I was thinking into the week of
4 May 15th.

5 JUDGE SIPPEL: I can't see what would justify
6 that. I mean, that is why I asked you up front. I mean, if
7 you need more time to prepare for discovery. But --

8 MR. HUTTON: Well, I wish I had mentioned it
9 earlier. It's just that I have tried not to interject my
10 personal life into the case. But, you know, the case has
11 been going on for a while. And I apologize for suggesting a
12 hiatus of some sort. But I would like to ask your
13 indulgence for this purpose.

14 JUDGE SIPPEL: Well, that is going to really throw
15 this thing into a cocked hat. I mean, I -- you know, I am
16 open to most anything that is reasonable. And I am willing
17 to make adjustments as situations come up. But to just
18 deliberately set this thing down that late in May and then
19 we have to think in terms of the next phase. That would be
20 discovery. And then we are into -- you know, we are into
21 vacation time in the summer. And before you know it, I
22 mean, we are back into raking the leaves again.

23 MR. HUTTON: Well, I am willing to proceed with
24 discovery on Phase III if that would use up the time. I had
25 planned on delegating most of Phase III to Dennis Southard.

1 And so if Mr. Cole is amenable to that, I would suggest we
2 use the time that way.

3 JUDGE SIPPEL: Well, then you want to try them
4 both together, just keep going forward with discovery and
5 then try them back to back, the two phases back to back?

6 MR. HUTTON: I think there is merit to that
7 approach.

8 JUDGE SIPPEL: Well, this is the first I have
9 heard of this. I don't know. Does anybody -- Mr. Shook,
10 Mr. Cole, do you want to respond to this or do you want
11 time? Maybe I should just give you a day or so to talk it
12 out amongst yourselves and you can come back and put forward
13 something for me.

14 MR. SHOOK: I can tell you I have no problem with
15 that thought. My personal situation, I have been down the
16 road with children many, many times. And I can understand
17 Mr. Hutton's plight.

18 JUDGE SIPPEL: You are a veteran, Mr. Shook.

19 MR. SHOOK: So I am more than sympathetic to his
20 situation and perfectly willing to have Phases II and III
21 tried together.

22 MR. COLE: And, Your Honor, I am just a two-timer.
23 But I am fully sympathetic to Mr. Hutton's situation, as
24 well. And I would also be happy to put his wife in touch
25 with my wife because both my kids were two and a half weeks

1 late if that would be of any assistance.

2 But I have no objection, certainly, to accommodate
3 Mr. Hutton. Whether or not putting off the Phase II trial
4 until we finish Phase III, I would like a day or so to think
5 about that just because, you know, I have been gearing
6 myself up to get Phase II done, wrapped up like we did with
7 Phase I.

8 I suspect we can probably, you know -- I can still
9 work on a schedule where I can get that done and try to
10 respond to discovery requests coming in on Phase III. But
11 at this point, Mr. Bechtel is working on other projects. So
12 it is pretty much me alone in the shop. So I am not in a
13 position to delegate much work off to anybody else.

14 JUDGE SIPPEL: Well, why don't we do this. Why
15 don't we -- I've still got the date open. Why don't we come
16 back on Thursday and pick it up again.

17 MR. COLE: Sure.

18 JUDGE SIPPEL: And in the meantime, you all get
19 together and try and work up as best you can, work up a
20 schedule that would incorporate both discovery, completing
21 the discovery for Phase II, what it takes to get discovery
22 in Phase III completed, and come up with some hearing dates
23 that will, you know, provide for a back-to-back or virtually
24 back-to-back, maybe a couple of days in between to catch
25 your breath.

1 But -- and the only -- I am far removed from the
2 concerns that we are talking about here today. But I am
3 committed to being out of the country starting around August
4 7th. So -- and, you know, we have committed on that. So I
5 am not going to be able to be in hearing.

6 You know, actually, you can knock out the first
7 week in August, the second week in August and probably, you
8 know, some of the third week in August. So for all
9 practical purposes, the first three weeks of August are out
10 for me.

11 So the idea would be to finish it before -- to
12 finish all this -- all the hearing work before August. And
13 I think it is doable even with this hiatus. If you are --
14 if there is meaningful discovery going on between now
15 through mid-May, you should be able to get a lot done.

16 But you all get together and you talk to me about
17 it. We will talk some more about it on Thursday. How --
18 what is the situation on the video tapes for the -- the
19 station video tapes?

20 MR. HUTTON: I have been waiting to get a company
21 recommended by my client and to have -- once I get that, I
22 will have Mr. Cole send it to a company for reproduction.

23 JUDGE SIPPEL: Are they in a position, Mr. Cole,
24 where they can be shipped right to Mr. Hutton as soon as --

25 MR. COLE: Sure.

1 JUDGE SIPPEL: -- he gives you the green light?

2 MR. COLE: Yes. I have tapes in two boxes. My
3 preferences would be to take them to a place here in town
4 that we have used before for multiple copying of video tapes
5 for hearing purposes. That has worked perfectly fine. And,
6 you know, I find them to be reliable.

7 I would just as soon, you know, hold onto the
8 tapes myself and with Mr. Hutton in tow, just go over and
9 dump them so that we both know where they are rather than
10 let them go and hope they come back.

11 JUDGE SIPPEL: Why couldn't we do that?

12 MR. HUTTON: Well, the problem is that it is a lot
13 cheaper to do this type of thing up in Reading than it is in
14 Washington, D.C. And the client would rather have Mr. Cole
15 ship the tapes up to a company in Reading.

16 JUDGE SIPPEL: Any possibility that you could -- I
17 don't know, but your clients would think about just
18 splitting the cost?

19 MR. COLE: Sure.

20 JUDGE SIPPEL: Why don't we do that? As long as
21 your client is getting a Reading rate or better.

22 MR. HUTTON: Okay. Okay. Yes, we will try to
23 work it out.

24 JUDGE SIPPEL: Yes, well, work -- yes, well,
25 please do. You know, and really work on it because these

1 things start to slip and you can see what happens. And
2 that's -- you know, whatever can be done now, do it now or
3 get the process started now. And then you can go back to it
4 and finish it up. But don't let this stuff lie. Anything
5 else that we can talk about today?

6 MR. COLE: Just for the record, I have received a
7 letter from Sidley indicating Mr. Wadlow and Ms. Friedman
8 would be available for depositions next Monday and Tuesday
9 respectively. I responded back to Mr. Geolot yesterday that
10 I would raise that on the record today. And that is why I
11 am doing this right now.

12 Before you arrived, Your Honor, I spoke with Mr.
13 Hutton and Mr. Shook to confirm their availability and that
14 that would be acceptable to them. And they both -- or Mr.
15 Hutton did. I think Mr. Shook did, too. So I think at this
16 point, we are scheduling Mr. Wadlow for Monday afternoon and
17 Ms. Friedman for Tuesday at some point.

18 JUDGE SIPPEL: Those are April 3 and 4?

19 MR. COLE: Yes. And I will so communicate to Mr.
20 Geolot this afternoon. And Mr. Hutton and I have I think
21 tentatively agreed -- Mr. Parker apparently is available on
22 Tuesday, the 11th. And I have advised Mr. Hutton that is
23 fine with me. So I think those three prove to be under
24 control.

25 JUDGE SIPPEL: Okay. How about your schedule, Mr.

1 Shook? Are those dates okay for you?

2 MR. SHOOK: Those dates are fine.

3 JUDGE SIPPEL: And they are all going to be taken
4 here in Washington.

5 MR. COLE: Yes.

6 JUDGE SIPPEL: Well, of course they will. I am
7 hoping that -- I -- from what I have seen thus far, I know
8 that you may not be satisfied with the scope with having
9 totally completed Mr. Kravetz. But I got the feeling that
10 he really doesn't have to be called back in.

11 MR. COLE: Well, that is hard to say, Your Honor.
12 And, you know, I -- at this point, I am not inclined to do
13 it just because I don't want to hassle him unnecessarily.
14 And I think we explored pretty much what we needed to
15 explore in his deposition.

16 But I do want to look over the documents again
17 because what I found in preparation for Mr. Kravetz's
18 deposition, I had sent him a set of documents that I wanted
19 him to be able to look at so he would be able to refresh his
20 recollection. The night before in preparing for his
21 deposition, I had come across one more document that had his
22 signature on it that I had overlooked previously.

23 And so I presented that to him at the deposition.
24 And it did, in fact, refresh his recollection. And I had
25 noticed that he had not seen a lot of this stuff before,

1 hadn't thought about it before. Any new documents seemed to
2 refresh his recollection about exactly what had gone down.

3 So I am not 100 percent confident that just
4 because the -- a document doesn't appear on its face to have
5 an awful lot of meat to it, that that wouldn't jog his
6 memory in some way, shape or form. But, again, I want to --
7 I am looking at the documents now and thinking about that.
8 My inclination right now is not to recall him. But I have
9 not completely signed off on that.

10 JUDGE SIPPEL: Okay. Because I am the one that
11 pushed him out there. And I feel that I sort of owe him
12 something to be sure that if you are going to -- you know,
13 if you are going to haul him back in for more deposition
14 work, it better sure be necessary.

15 MR. COLE: I understand.

16 JUDGE SIPPEL: That is all I have. That is all I
17 have. You know, I'm saying, again, I didn't want to be
18 critical of anybody on any of this. But, you know, we
19 just -- circumstances are circumstances. We will meet again
20 on -- what date do I have there, March the 30th -- Thursday,
21 March the 30th at 10:00 a.m. Is that convenient to
22 everybody?

23 MR. COLE: That's fine.

24 JUDGE SIPPEL: All right. And get to me by -- let
25 me say by 3:00 Wednesday afternoon, that would be tomorrow

1 afternoon, get to me an outline of dates that you have
2 been -- that you are either talking about or that you have
3 agreed to. And, again, that can all be faxed, the
4 traditional fax method.

5 MR. COLE: My only caveat on that, Your Honor, is
6 that Mr. Gilbert is out of the country this week. And I
7 will try to reach him. And I realize that he doesn't bind
8 everybody else. But to the extent that I will need -- I
9 assume Mr. Hutton is going to want to depose him in
10 connection with the Phase III trial. And obviously, his
11 availability for the Phase III trial itself will be
12 essential.

13 And I would like at least -- you know, I don't --
14 since he is traveling now, I don't anticipate he will be
15 traveling much later in the summer. But I don't know. And
16 I am, you know, kind of reluctant to commit without knowing
17 100 percent what he is doing. But I am certainly happy to
18 try to work out a schedule that is convenient for all of us
19 subject to availability of the clients and witnesses.

20 JUDGE SIPPEL: All right. Well, all I can ask you
21 to do is to do the -- you know, is do the best you can. But
22 I want -- when we complete here on Thursday, I want to have
23 firm dates that I can set out so that -- you know, that we
24 know exactly what we are shooting at. So do what you can.
25 Is he unreachable?

1 MR. COLE: He was traveling with his wife in
2 Spain. I am advised that he does check in with his office.
3 So what I will do is put a -- send a fax out to his
4 secretary and ask her either to read it to him or to fax --
5 in turn fax it out to wherever he is. But I gather he is
6 traveling all around the country at this point.

7 JUDGE SIPPEL: That is a fine country. I adore
8 it. I studied there for a whole year. And we were able to
9 find her. And that's hard to do. So, you know, he can't be
10 too far lost.

11 MR. COLE: No.

12 MR. HUTTON: Just to be clear, when do you want a
13 report in writing?

14 JUDGE SIPPEL: Three o' clock tomorrow afternoon.
15 And, again, it doesn't have to be a detailed report. I just
16 want some dates on -- I want to find out where you are as
17 far as dates are concerned. All right? And if it is not --
18 you know, if it is not completed, it is not completed. But
19 at least we could get it started. Then we can -- I intend
20 to finish it up Thursday morning.

21 If that's -- if you feel -- listen, I mean, if at
22 3:00 tomorrow morning -- afternoon rather, if you -- yes,
23 tomorrow morning -- if by 3:00 tomorrow afternoon you feel
24 that you need more time to get it locked up, let me know and
25 we can postpone the conference until Friday.

1 I mean, we don't -- there is nothing magic about
2 Thursday in light of what we are doing here. But surely by
3 the end of this week, we should be able to agree on dates.
4 And I need to know the hearing dates. I mean, as you can
5 see, I've got -- you know, people do have plans. And once
6 we set these hearing dates, we want to keep going and get it
7 finished.

8 MR. SHOOK: I agree.

9 JUDGE SIPPEL: Not to lose sight of the fact that
10 we have Phase I completed. And I hope we all have good
11 memories. It's all in the record. It is all in the record.

12 MR. COLE: Your Honor, with respect just to plans,
13 just in case we do have to schedule it Friday morning, I
14 have a dentist appointment at 8:30. But -- so the -- it's
15 just a check-up, a post-surgery follow-up. So it is not a
16 big deal. But I may not be able to make a 10:00 hearing.

17 JUDGE SIPPEL: Well --

18 MR. COLE: And we may not need a 10:00 hearing on
19 Friday because we may be able to deal with it on Thursday.
20 I just wanted to put everybody on notice that we may have to
21 put it off until 11:00 on Friday.

22 JUDGE SIPPEL: Well, do you want to do that right
23 now? I mean, does that make sense? Does anybody have
24 anything of any other commitments on Friday?

25 MR. HUTTON: I don't. And given Mr. Gilbert's

1 status, we may need the extra time.

2 MR. COLE: Yes.

3 JUDGE SIPPEL: Mr. Shook?

4 MR. SHOOK: Eleven o' clock Friday probably makes
5 more sense.

6 JUDGE SIPPEL: Let's do it at 11:00 Friday. I
7 will get a short order out today so that the reporting
8 service knows about that.

9 MR. COLE: And the report to you on the tentative
10 schedule will be put off a day?

11 JUDGE SIPPEL: It will be 3:00 on Thursday instead
12 of on Wednesday, yes. Everything goes 24 hours. In fact,
13 actually, you don't have to do it at 3:00. Get it over to
14 me at the end of your business day. I can pick it up on
15 Friday morning. If I don't see it Thursday night, I will
16 see it Friday morning. And by 11:00 conference, I think I
17 can get focused on that thing. Okay?

18 MR. COLE: Okay.

19 JUDGE SIPPEL: We are in recess until Friday at
20 11:00. We are adjourned.

21 (Whereupon, at 10:08 a.m., the hearing in the
22 above-entitled matter was adjourned until Friday, March 31,
23 2000 at 3:00 p.m.)

24 //

25 //

REPORTER'S CERTIFICATE

FCC DOCKET NO.: 99-153

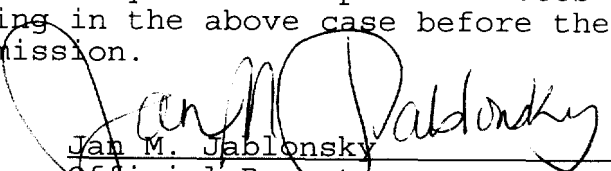
CASE TITLE: IN RE: READING BROADCASTING, INC.

HEARING DATE: March 28, 2000

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.


Date: 3/28/00


Jan M. Jablonsky
Official Reporter
Heritage Reporting Corporation
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.


Date: 4/7/00


Bonnie J. Niemann
Official Transcriber
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 4/7/00


Lorenzo Jones
Official Proofreader
Heritage Reporting Corporation

Heritage Reporting Corporation
(202) 628-4888